

SECTION 9

F ZONES (FLOODPLAIN) REGULATIONS

Part 1. STATUTORY AUTHORIZATION, FACT, PURPOSES AND GENERAL PROVISIONS

9.11 Approval of Draft Resolution by Kansas Chief Engineer prior to Adoption.

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on January 24, 2005.

9.12 Kansas Statutory Authorization.

The Legislature of the State of Kansas has in K.S.A. 12-741, et. seq. and particularly in 12-742, 12-755, 12-766 and 12-768 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of County Commissioners, for the County of Riley, Kansas, does resolve as follows:

9.13 Finding of Fact.

(A) Flood Losses Resulting from Periodic Inundation.

The flood hazard areas of Riley County, Kansas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which affect the public health, safety and general welfare.

(B) General Causes of the Flood Losses.

- (1) The cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and
- (2) The occupying of flood hazard areas by uses vulnerable to floods or hazardous to others, inadequately elevated or otherwise unprotected, from flood damages.

(C) Method Used to Analyze Flood Hazards.

This resolution is based upon a reasonable method of analyzing flood hazards. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the County of Riley, Kansas"

dated, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps. The Flood Insurance Study is on file in the County Office Building, 110 Courthouse Plaza, Manhattan, Kansas.

9.14 Statement of Purpose.

It is the purpose of this Resolution to promote the public health, safety and general welfare and to minimize those losses described in paragraph 9.13 (A), by adopting provisions that are designed to:

- (A) protect human life and health;
- (B) minimize expenditure of public money for costly flood control projects;
- (C) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (E) provide information to the public concerning appropriate uses in areas affected by flood hazards and to protect individuals from buying lands which are unsuited for intended purposes because of flood hazard;
- (F) restrict or prohibit uses which are dangerous to health, safety or property in times of flooding or which cause excessive increases in flood heights or velocities; and
- (G) assure that eligibility is maintained for property owners in the County to purchase flood insurance through the National Flood Insurance Program.

9.15 General Provisions.

- (A) Lands to which Resolution Applies.

This Resolution shall apply to all lands within the jurisdiction of Riley County shown on the official maps as being located within the boundaries of the Floodway Overlay or Flood Fringe Overlay districts as later established herein.

- (B) Establishment of Official Maps.

This resolution shall apply to all lands within the jurisdiction of Riley County identified as numbered and unnumbered A Zones, AE, AO and ah zones, on the Index Map dated February 4, 205 of the Flood Insurance

Rate Map (FIRM) and any future revisions thereto. The Official Floodplain Maps shall be the FEMA maps that shall be kept in the office of the Riley County Planning and Development Department.

(C) Compliance.

No development located within the jurisdiction of this resolution shall be located, extended, converted or structurally altered without full compliance with the terms of this resolution and other applicable regulations.

(D) Abrogation and Greater Restrictions.

This resolution is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this resolution and other resolutions, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(E) Interpretation.

In their interpretation and application, the provisions of this resolution shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

(F) Warning or Disclaimer of Liability.

The degree of flood protection required by this resolution is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This resolution does not imply that areas outside the floodway and flood fringe overlay district boundaries or land uses permitted within such districts, will be free from flooding or flood damages. This resolution shall not create liability on the part of the County of Riley, Kansas or any officer or employee thereof for any flood damages that result from reliance on this resolution or any administrative decision lawfully made thereunder.

(G) Severability.

If any section, clause, provision or portion of this resolution is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this resolution shall not be affected thereby.

Part 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this Resolution shall be interpreted so as to give them the meaning they have in common usage and to give this Resolution its most reasonable application.

ACCESSORY STRUCTURE means the same as “appurtenant structure”.

AGRICULTURAL COMMODITIES means agricultural products and livestock.

AGRICULTURAL STRUCTURE means any structure used exclusively in connection with the production, harvesting, storage, drying or raising of agricultural commodities.

APPEAL means a request for review of the Floodplain Administrator’s interpretation of any provision of this regulation or a request for a variance.

APPURTENANT STRUCTURE means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the structure.

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one-percent (1%) or greater chance of flooding in any given year.

BASE FLOOD means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION is the elevation shown on the FIRM and in the Flood Insurance Study as representative of the base flood.

BASEMENT means any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING – see “STRUCTURE”.

CHIEF ENGINEER means the chief engineer of the Division of Water Resources, Kansas Department of Agriculture.

COMMUNITY means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DRY FLOODPROOFING is a type of flood protection technique that requires structures to be designed so that the portion below the BFE is made watertight with walls substantially impermeable to the passage of water.

ELEVATED BUILDING means a non-basement building; (1) built to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), shear walls parallel to the flow of the water, or fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters; and (2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

ELIGIBLE COMMUNITY (OR PARTICIPATING COMMUNITY) means a community for which the Federal Insurance Administrator (FIA) has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

EXISTING CONSTRUCTION means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMS effective before that date. “Existing construction” may also be referred to as “existing structures”.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before the effective date of this resolution.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

FEMA is the Federal Emergency Management Agency.

FLOOD OR FLOODING means a general and temporary condition or partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland waters; and/or
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION STUDY means an examination, evaluation and determination of flood hazards.

FLOOD FREQUENCY is the average recurrence interval, statistically determined, for which it is expected that a specific flood level or discharge may be equaled or exceeded.

FLOOD HAZARD BOUNDARY MAP (FHBM) means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

FLOOD INSURANCE RATE MAP (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD INSURANCE STUDY means the official report in which FEMA have provided flood profiles, as well as the Flood Boundary and Floodway Maps and the surface elevations of the base flood.

FLOODPLAIN means the area adjoining a watercourse at or below the water surface elevation associated with the base flood that have been or hereafter may be covered by the base flood. A floodplain is represented by large floods known to have occurred and characteristics of what can be statistically expected to occur on an average frequency of once every 100 years and have water surface elevations equal to those filed with and made a part of the Official Floodplain Maps.

FLOODPLAIN MANAGEMENT means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS means zoning regulations, subdivision regulations, building codes, health regulations, special purpose regulations (such as floodplain and grading regulations) and other applications of police power. The term describes such state and local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

FLOOD-PROOFING means any combination of structural and non-structural additions, change or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY is the channel of the watercourse and those portions of the adjoining floodplains which have been determined necessary to carry and discharge the base flood without undue restriction and without unreasonable effect on another. It is further defined as those areas on the river side of the established floodway district boundaries, as shown on the referenced Official Floodplain Maps.

FLOODWAY ENCROACHMENT LINES means the lines marking the limits of the floodways on federal, state and local floodplain maps.

FLOOD FRINGE is that portion of the floodplain outside the floodway.

FLOOD FRINGE OVERLAY DISTRICT is the zoning district for floodplain management purposes, which corresponds to the Flood Fringe as indicated on the Flood Boundary and Floodway Map.

FLOODWAY OVERLAY DISTRICT is the zoning district for floodplain management purposes, which corresponds to the designated floodway as indicated on the Flood Boundary and Floodway Map.

FREEBOARD means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only bridges, docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) by an approved state program as determined by the Secretary of the Interior; or
 - (b) directory by the Secretary of Interior in states without approved programs.

LOWEST FLOOR means the top of the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 9.53 (C) and (D).

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or manufactured home lots for rent or sale.

MAP means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM) or the Flood Boundary and Floodway Map (FBFM) for a community, issued by the Federal Emergency Management Agency (FEMA).

MARKET VALUE OR FAIR MARKET VALUE means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

MEAN SEA LEVEL means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

NEW CONSTRUCTION means for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

NFIP means the National Flood Insurance Program.

OBSTRUCTION is any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into a channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

OVERLAY DISTRICT is a district in which additional requirements act in conjunction with the underlying zoning district(s). The overlay zoning district designation does not change upon rezoning of the underlying districts or vice versa.

PARTICIPATING COMMUNITY also known as an “*eligible community*”, means a community in which the Federal Insurance Administrator has authorized the sale of flood insurance.

PERSON includes any individual or group of individuals, corporation, partnership, association or any other entity, including federal, state or local governments and agencies.

PRINCIPALLY ABOVE GROUND means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

RECREATIONAL VEHICLE means a vehicle that is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

REMEDY A VIOLATION means to bring the structure or other development into compliance with federal, state or local floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance.

RISK PREMIUM RATES means those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. “*Risk premium rates*” include provisions for operating costs and allowances.

SPECIAL HAZARD AREA means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE or AH.

START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual “start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STATE COORDINATING AGENCY means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the Governor of the State or by state statute, at the request of the Federal Insurance Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

STRUCTURE is a walled or roofed building that is principally above ground and is constructed or erected on the ground, or attached to the ground including but without limitation to residences, factories, sheds, manufactured homes and prefabricated buildings and gas or liquid storage tanks.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

TEMPORARY STRUCTURE means a structure permitted in a district for a period not to exceed 180 days and shall be removed upon the expiration of the permit period. Temporary structures may include recreational vehicles, temporary construction offices, or temporary business facilities used until permanent facilities can be constructed, **but at no time shall it include manufactured homes used as residences.**

VARIANCE means a grant of relief from the requirements of this Resolution, which permits construction in a manner that would otherwise be prohibited by this Resolution.

VIOLATION means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, or other certificates, or other evidence of compliance required by this resolution is presumed to be in violation until such time as that documentation is provided.

WALLED AND ROOFED means a structure that has in place two (2) or more exterior rigid walls and the roof secured so that the building will resist flotation, collapse and/or lateral movement.

WATER SURFACE ELEVATION means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified), of floods of various magnitudes and frequencies in the floodplain.

WET FLOODPROOFING means permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to enter the structure.

Part 3. ADMINISTRATION.

9.31 Floodplain Administrator.

- (A) The Zoning Officer of Riley County is hereby designated as the County’s duly authorized Floodplain Administrator (FPA) under this resolution and is hereby appointed to administer and implement the provisions of this Resolution. If the FPA finds a violation of the provisions of this Resolution, the FPA shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.

(B) Duties of the Floodplain Administrator (FPA).

The duties of the FPA shall include, but not be limited to:

- (1) reviewing proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- (2) reviewing all permit applications to determine whether proposed building sites will be reasonably safe from flooding and that permit requirements of this resolution have been satisfied;
- (3) reviewing of subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding;
- (4) assuring that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;
- (5) notifying, in riverine situations, of adjacent communities and the Kansas Department of Agriculture, Division of Water Resources, prior to any alteration or relocation of a watercourse, and submitting copies of such notification to the Federal Emergency Management Agency;
- (6) verifying, recording and maintaining of records of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures or the actual elevation to which the new or substantially improved structures have been floodproofed;
- (7) obtaining certification from a registered professional engineer or architect when floodproofing is utilized for a particular structure;
- (8) recording and maintaining all variance actions, including justification for their issuance and reporting of such variances issued in the annual or bi-annual report submitted to FEMA; and
- (9) issue floodplain development permits for all approved applications.

9.32 Floodplain Development (FPD) Permit.

(A) Permit Required.

A FPD permit issued by the Floodplain Administrator in conformity with the provisions of this resolution shall be secured prior to the start of construction or development on any land located within a floodway or

flood fringe overlay district. No person, firm, corporation or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for each development as defined herein.

(B) Application for FPD Permits.

Application for a FPD permit shall be made in duplicate to the Floodplain Administrator on forms provided, including plans in duplicate, drawn to scale, showing the nature, locations, dimensions and elevations of:

- (1) the lot or tract;
- (2) existing or proposed structures;
- (3) fill;
- (4) storage of materials;
- (5) drainage facilities; and
- (6) the location of the proposed development in relation to the channel, the floodway and the base flood elevation.

Such plans shall also indicate the assessed value of existing and proposed structures and the fair market value of the improvements. Any other information deemed necessary to make a full and accurate determination of potential flood hazard shall also be included.

(C) Construction and Use to be as provided in Application, Plans and Permits.

FPD permits and variances issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangements or construction. Use, arrangements or construction not consistent with that authorized shall be deemed a violation of this Resolution. The applicant shall be required to submit certification by a registered professional engineer or other qualified person that the finished fill and building flood elevations, floodproofing or other flood protection measures were accomplished in compliance with the provisions of this Resolution and any approvals granted hereunder.

Part 4. ESTABLISHMENT OF DISTRICTS.

9.41 General.

The floodplain areas within the jurisdiction of this resolution are hereby divided into two districts: the Floodway Overlay District (FW) and the Flood Fringe Overlay District (FF). The boundaries of these districts are shown on the Official Floodplain Maps. The FW and FF Overlay Districts are designed to be used in combination with any one or more of the other zoning districts specified in the Riley County Zoning Regulations. When combined with other zoning districts, only those uses permitted in both the overlay district and the underlying district shall be permitted. All standards applicable to both zones shall be met. The two floodplain zones combined shall be consistent with the numbered and unnumbered A zones (including AO and AH zones) as identified on the official FIRM and in the Flood Insurance Study provided by the Federal Emergency Management Agency. The floodway/flood fringe boundary line shall be as indicated on the Floodway Boundary and Floodway Map.

9.42 Rules for Interpretation of District Boundaries.

The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official County Zoning Map or on the Flood Insurance Rate Map or Flood Boundary and Floodway Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official maps (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. Any person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Floodplain Administrator and to submit their own evidence if so desired. In such cases where the interpretation of the Floodplain Administrator is contested, the Board of Zoning Appeals shall resolve the dispute. In either case, the regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land.

Part 5. PERFORMANCE STANDARDS FOR DEVELOPMENT.

9.51 Preferred Uses.

Any use may be permitted within the floodplain overlay districts, provided that the standards for the appropriate district (floodway or floodplain), as stated herein, are met AND the specific requirements of the underlying zoning district do not prohibit said use.

The following uses are examples of preferred uses in the floodway and flood fringe overlay districts, due to having a low damage potential and the capacity to

not obstruct flood flows. Uses other than those listed below should be discouraged from locating in flood-prone areas.

- (A) agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- (B) industrial commercial uses such as loading areas, parking areas, airport landing strips.
- (C) private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
- (D) accessory residential uses such as lawns, gardens, parking areas and play areas, but not including structures.
- (E) railroads, streets, bridges, utility transmission lines and pipelines.

9.52 General Standards.

In all areas of special flood hazards (FW and FF overlay districts), no permit shall be granted for development within these areas unless the following conditions are satisfied:

- (A) All new construction and substantial improvements (including the placement of manufactured homes and prefabricated buildings) shall be:
 - (1) designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure.
 - (2) constructed with materials and utility equipment resistant to flood damage; and
 - (3) constructed by methods and practices that minimize flood damage.
- (B) New or replacement water supply systems and/or sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them during flooding.

- (C) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (D) The storage or processing of materials that, in time of flooding, are buoyant, flammable, explosive or generally considered hazardous to human, animal or plant life, is prohibited.
- (E) Storage of temporary construction material or equipment and/or storage of other personal property may be allowed if said property is:
 - (1) not subject to major damage by floods and firmly anchored to prevent flotation; or
 - (2) readily removable from the area within the time available after flood warning.
- (F) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevations are not provided. Nevertheless, the unnumbered A zones shall be subject to all development provisions of this Section, paragraph 9.52, with the exception of paragraph 9.52 (G) below. If Flood Insurance Study data is not available for these areas, the County shall obtain, review and reasonably utilize any base flood elevation and floodway data currently available from a Federal, State or other source until such other data has been provided by FEMA.
- (G) Until a regulatory floodway is designated for an area, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 on the County's FIRM unless it is demonstrated by a professional engineer that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the County.

9.53 Specific Standards.

In all areas of special flood hazards (FW and FF overlay districts) the following specific provisions are required:

(A) Residential Construction (excluding manufactured homes).

All new construction or substantial improvements of residential structures shall have the lowest flood, including basement, elevated to a point one (1) foot or more above the base flood elevation. **The elevation of the lowest floor shall be certified by a licensed land surveyor.**

(B) Manufactured Homes.

All manufactured homes to be placed within all unnumbered A zones and AE zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are limited to, use of over-the-top or frame ties to ground anchors.

All manufactured homes that are placed or substantially improved on a site:

- (1) outside of a manufactured home park or subdivision;
- (2) in a new manufactured home park or subdivision;
- (3) in an expansion to an existing manufactured home park or subdivision; or
- (4) in an existing manufactured home park or subdivision on which the manufactured home has incurred "substantial damage" (see Section 9, Page 10) as a result of a flood,

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a point one (1) foot or more above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor.**

All manufactured homes to be placed or substantially improved on sites within an existing manufactured home park or subdivision that are **not**

subject to the provisions of the above paragraph of this section shall be elevated so either:

- (1) the lowest floor of the manufactured home is one (1) foot or more above the base flood elevation, or
- (2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(C) Non-Residential Construction.

All new construction or substantial improvements of non-residential structures (including prefabricated buildings) shall either:

- (1) have the lowest floor, including basement, elevated to a point one (1) foot or more above the base flood elevation; or
- (2) together with attendant utility and sanitary facilities, be designed so that, below the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods are in accordance with accepted standards of practice for meeting the above provisions. Such certification, including the specific elevation (to mean sea level) to which such structures are floodproofed, shall be provided to the Floodplain Administrator as set forth in subsection 9.31(B). **The elevation of the lowest floor shall be certified by a licensed land surveyor.**

(D) Areas below the lowest floor.

Fully enclosed areas below the lowest floor, useable solely for parking of vehicles, building access or storage in an area other than a basement area, that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of

all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

9.54 Additional Performance Standards for Floodway Uses.

In addition to the standards set forth in paragraphs 9.52 and 9.53, the following shall apply to all development within the Floodway Overlay District:

Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited unless certification, in accordance to FEMA guidelines, is provided by a qualified registered professional engineer, demonstrating that encroachments shall not result in any increase in flood levels within the County during occurrence of the base flood discharge.

9.55 Standards for Subdivision Proposals.

- (A) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (D) Base flood elevation data shall be provided for all subdivision proposals located in a floodplain. The floodway and flood fringe boundary lines shall be clearly indicated on the subdivision plat and referenced to sea level datum. A permanent benchmark shall be placed at an appropriate location within or near the subdivision. The location of the benchmark shall be indicated on the plat to facilitate future determination of elevation.

Part 6. TEMPORARY STRUCTURES.

- 9.61 The placement of a temporary structure within the designated 100-year floodplain shall require a permit administered by the Floodplain Administrator (FPA). In order to obtain a permit, application for a temporary structure permit must be made to the FPA. A temporary structure permit shall be valid for a period not to exceed 180 days.

The FPA shall determine that each application meets the following standards:

- (A) the placement of any temporary structure within the special flood hazard areas, as shown on the community's adopted FEMA/NFIP map, shall require an approved temporary structure permit. A site plan shall be required to be submitted along with the application;
- (B) an emergency plan for the removal of the temporary structure, that includes specific removal criteria and time frames from the agency or firm responsible for providing the manpower, equipment, and disconnection and relocation of all utilities, shall also be required as part of the temporary structure permit application;
- (C) on or before the expiration of the end of the 180-day temporary structure permit period, the temporary structure shall be removed from the site. All utilities, including water, sewer, communications, and electrical services shall be disconnected;
- (D) to ensure the continuous mobility of the temporary structure for the duration of the permit, the temporary structure shall retain its wheels and tires, licenses, and towing appurtenance on the structure at all times;
- (E) under emergency flooding conditions, temporary structures shall be removed immediately or as directed by the community and as specified in the emergency removal plan;
- (F) location of any temporary structure within the regulatory floodway requires the provision of a "no-rise" certificate by a registered professional engineer;
- (G) any deviation from the approved site plan shall be deemed a violation of the temporary structure permit approval and the uses allowed shall automatically be revoked. The subsequent use of the land shall be as it was prior to the temporary structure permit approval. In the event of any violation, all permitted uses shall be deemed a violation of this ordinance and shall be considered illegal, non-conforming uses and shall be summarily removed and abated; and
- (H) if the temporary structure is to be returned to its previously occupied site, the process for issuing a temporary structure permit must be repeated in full. Any subsequent permit shall be valid for 180 days only.

Part 7. NON-CONFORMING USES.

- 9.71 A structure, or the use of a structure or premises which was lawful before the passage or amendment of this resolution but which is not in conformity with the provisions herein, may be continued subject to the following conditions:
- (A) a non-conforming use of property shall not be expanded, changed, enlarged or altered in any way that increases its non-conformity.
 - (B) if a non-conforming use of a structure or land is discontinued for 12 consecutive months, any future use of the structure or land shall conform to this resolution.
 - (C) if any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost of reconstruction exceeds 50 percent of the market value of the structure before the damage occurred. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a Register of Historic Kansas Places.
 - (D) if any non-conforming structure (including manufactured homes and prefabricated buildings) is removed from a site, the structure shall not be replaced, except in a manner that is in conformity with the provisions of this resolution.

Part 8. STANDARDS FOR FLOODPLAIN VARIANCES.

9.81 General.

- (A) The Riley County Board of Zoning Appeals shall have jurisdiction over these Floodplain Regulations as specified in Section 20 of the Riley County Zoning Regulations and as further enumerated in this Section. The requirements of this Section are in addition to those of Section 20 of the Zoning Regulations.
- (B) The placement of any structure in a floodplain not in a manner consistent with the requirements of this Resolution and for which a variance is required, may be allowed only upon application to the Floodplain Administrator on forms provided and issuance of a variance by the Board of Zoning Appeals.

9.82 Procedure to be followed by Board in approving variance requests.

- (A) Upon receiving an application for a variance for construction, the Board, prior to rendering a decision thereon, shall:
 - (1) require the applicant to furnish such information from a registered professional engineer or land surveyor as is necessary for determining the suitability of the particular site for the proposed use. The information shall be sufficient to adequately analyze the factors and criteria listed in paragraph 9.82 (B) and (C) following; and
 - (2) based upon the technical information presented and the evaluation of the engineer, the Board shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.
- (B) Factors upon which the decisions of the Board shall be based.

In passing upon such applications, the Board shall consider all relevant factors (including the cost of flood insurance) specific in other sections of this Resolution, and

- (1) the danger to life and property due to increased flood heights or velocities caused by encroachment;
- (2) the potential danger that items may be swept onto other lands or downstream to the injury of others;
- (3) the proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
- (4) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (5) the requirements of the facility for a waterfront location;
- (6) the availability of alternative locations not subject to flooding for the proposed use;
- (7) the compatibility of the proposed use with existing development and anticipated future development;
- (8) the relationship of the proposed use to the Comprehensive Plan and Flood Insurance Study for the area;

- (9) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) the expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and
- (11) other factors which are relevant to the purpose of this Resolution.

(C) Criteria for Variance Approval.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2-6 below have been fully considered. As the lot size increases beyond the one-half acre requirement, the technical justification required for issuing the variance also increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the Register of Historic Places or local inventory of historic places upon determination (provided the proposed activity will not preclude the continued historic designation of the structure).
- (3) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (a) the criteria of items listed in paragraph 9.82 (C) (6) and (7) are met; and
 - (b) the structure or other development is protected by methods that minimize flood damages during the base flood.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result in an unreasonable effect on another.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (6) Variances shall only be issued upon:
 - (a) a showing of good and sufficient cause;
 - (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (c) a determination that the granting of a variance will not result in increased flood heights, which may cause additional threats to public safety or generate extraordinary public expense;
 - (d) a determination that the granting of the variance will not create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or resolutions.
- (7) Any applicant to whom a variance is granted for an insurable structure shall be given a written notice indicating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation AND that such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this resolution.

9.83 Conditions for approving variances for accessory structures.

Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances.

The National Flood Insurance Program (NFIP) floodplain management regulations require new, substantially improved, and substantially damaged buildings to be elevated or floodproofed to the Base Flood Elevation. To meet the NFIP floodproofing requirements, structures must utilize the "dry floodproofing" technique.

However, FEMA recognizes that alternate methods of flood protection, such as "wet floodproofing", may be appropriate for accessory structures.

At the very minimum, variances that are granted shall meet the conditions set forth in paragraph 9.82 (C)(6) and (7) of this section. For structures that are wet-floodproofed, the following conditions shall be used as guidance to determine whether a building is a candidate for "wet floodproofing":

- (A) the use of the structure must be limited to parking or limited storage and not used for human habitation.
- (B) the accessory structure must be built (or rebuilt in the case of an existing building that is substantially damaged) with flood-resistant materials for

the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the BFE.

- (C) The accessory structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, hydrodynamic and debris impact forces, as determined by a licensed engineer.
- (D) The accessory structure must meet the NFIP openings requirement. NFIP requires that enclosure walls or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters as set forth in paragraph 9.53(D) of this section.
- (E) Any mechanical, electrical, or other utility equipment must be located above the BFE or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions.
- (F) Variances issued for accessory structures within any designated floodway must meet the criteria set forth in Part V. Section 9.54 of this regulation.
- (G) Major equipment, machinery or other contents must be protected from any flood damage.
- (H) Detached garages and storage sheds, used solely for parking and limited storage, shall be no greater than 700 square feet in area (26 x 26).

9.84 Conditions for approving variances for **agricultural** structures.

The National Flood Insurance Program (NFIP) floodplain management regulations require new, substantially damaged non-residential buildings to be elevated or floodproofed to the Base Flood Elevation.

To meet the NFIP floodproofing requirements, structures must utilize the “dry floodproofing” technique. Agricultural structures are included under the general NFIP definition of a non-residential structure and, consequently, are subject to all floodplain management regulations pertaining to new construction or substantially improved/substantially damaged structures.

However, FEMA recognizes that alternate methods of flood protection, such as “wet floodproofing”, may be appropriate for certain types of agricultural structures located in wide, expansive floodplains.

A variance may be issued for the following types of agricultural structures only if the structure is used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Such structures may include:

- pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment.
- steel grain bins and steel frame corn cribs.
- general-purpose barns for the temporary feeding of livestock that are open on at least one side. (For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may only be issued for structures substantially damaged as a result of the Great Midwest Flood of 1993).
- detached garages and storage sheds, used solely for parking and limited storage, that are no greater than 700 square feet in area.

At the very minimum, variances that are granted shall meet the conditions set forth in paragraph 9.82 (C)(6) and (7) of this section. For buildings that are wet-floodproofed, conditions listed in paragraph 9.83 of this section shall be used as guidance to determine whether a building is a candidate for “wet floodproofing”.

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building’s unique circumstances. **A variance may only be issued when agricultural structures are designed to minimize damage to the building and its contents and creates no additional threats to public safety.**

Part 9. AMENDMENTS.

Unless approved from FEMA, established floodplain designations shall not be altered, modified or removed from the Flood Insurance Rate Map.

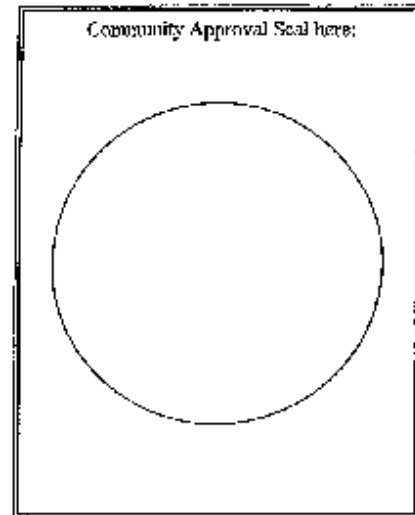
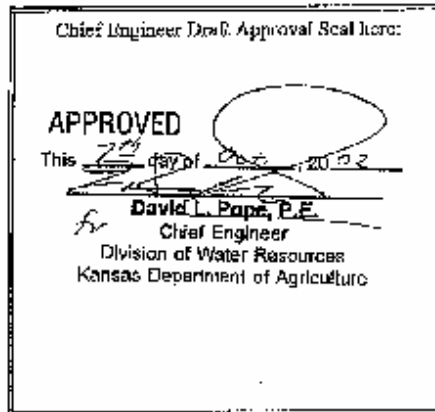
All amendments to this Resolution shall be made in the manner set forth in the Riley County Zoning Regulations, and shall be submitted to the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture and the Federal Emergency Management Agency for their approval, prior to adoption by the County.

Part 10. CERTIFICATE OF ADOPTION

This Floodplain Management Resolution for Riley County, Kansas.

PASSED AND ADOPTED by the Board of Commissioners of Riley County, Kansas.

This 17 day of March, 2003



APPROVED:

Alvan D. Johnson 3-17-03
Signature of Chief Executive Officer/Chief Elected Official Date
Alvan D. Johnson Chairman Board of Commissioners
Chief Executive Officer/Chief Elected Official (typed/printed) Title

ATTEST:

Rich Vargo 3-17-03
Signature of Recording Clerk Date
Rich Vargo County Clerk
Name of Recording Clerk (typed/printed) Title

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Section 9
Floodplain Regulations
Page 28